IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

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O R D E R

Kishan Gopal Joshi Vs. State of Rajasthan & ORS.

S.B. CIVIL WRIT PETITION NO.4986/2002 UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

DATE OF ORDER : 5.7.2006

PRESENT

HON'BLE MR.MOHAMMAD RAFIQ,J.

Mr. Mukesh Rajpurohit, for the petitioner.
Mr. Rameshwar Dave, Dy.GA, for the respondent-State.

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BY THE COURT: -

The petitioner in this writ petition has challenged the order dated 17.12.2002 (Annex.2) whereby the Divisional Commissioner, Jodhpur transfering the petitioner from Government Model Hr. Secondary School, Tanawada, Panchayat

Samiti Luni, District Jodhpur to District Education Officer (Elementary), Jaisalmer. This order was made when the Divisional Commissioner, Jodhpur inspected the aforesaid school on 25.11.2002 and found that the school was closed at 4.05 PM. The petitioner was then posted as Head Master of the said school. A notice was issued to the petitioner. The Divisional Commissioner heard the petitioner personally on 9.12.2002, but not being satisfied with his explanation, he finally ordered his transfer.

The learned counsel for the petitioner Shri Mukesh Rajpurohit assailed the aforesaid order on the ground that the Divisional Commissioner had no legal competence to pass such order of transfer and the Government circular dated 2.7.1999 whereby power was conferred upon the Divisional Commissioner was held to be not supported by any authority of law by this Court in S.B. Civil Writ Petition No.814/2002- Kera Ram Vs. State of Rajasthan & Ors. vide judgement dated 21st May, 2002 .

This Court while issuing notices of the writ petition on 20.12.2002 stayed the operation of the transfer order dated 17.12.2002 and the stay order has been operating in this matter since then. Now that a period of about three and half years has elapsed since then, I do not consider it appropriate to go into the merits of the case and examine correctness of the transfer order. At the same time, however, I deem it appropriate that in view of

long lapse of time, the transfer order itself has become old enough and same may not be given effect to now. However, the authorities shall be at liberty to pass fresh order of transfer if they so desire. A copy of this order be sent to the Director, Elementary Education, Bikaner.

In view of the above, the writ petition of the petitioner is disposed of with no order as to costs.

(MOHAMMAD RAFIQ), J.

c.p.goyal/-